
SENATE BILL 5922

State of Washington 62nd Legislature 2011 Regular Session

By Senators Chase, Conway, Nelson, Kline, Harper, Keiser, and Kohl-Welles

Read first time 04/07/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to taxpayer accountability by requiring a net
2 benefit to the state in order to claim the benefit of a tax
3 expenditure; and amending RCW 82.32.585 and 82.32.534.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.32.585 and 2010 c 114 s 102 are each amended to
6 read as follows:

7 (1)(a) Every person claiming a tax ((~~preference~~)) expenditure that
8 requires a survey under this section must file a complete annual survey
9 with the department.

10 (i) Except as provided in (a)(ii) of this subsection, the survey is
11 due by April 30th of the year following any calendar year in which a
12 person becomes eligible to claim the tax ((~~preference~~)) expenditure
13 that requires a survey under this section.

14 (ii) If the tax ((~~preference~~)) expenditure is a deferral of tax,
15 the first survey must be filed by April 30th of the calendar year
16 following the calendar year in which the investment project is
17 certified by the department as operationally complete, and a survey
18 must be filed by April 30th of each of the seven succeeding calendar
19 years.

1 (b) The department may extend the due date for timely filing of
2 annual surveys under this section as provided in RCW 82.32.590.

3 (2)(a) The survey must include the amount of the tax ((~~preference~~))
4 expenditure claimed for the calendar year covered by the survey.

5 (b) The survey must also include the following information for
6 employment positions in Washington, not to include names of employees,
7 for the year that the tax ((~~preference~~)) expenditure was claimed:

8 (i) The number of total employment positions;

9 (ii) Full-time, part-time, and temporary employment positions as a
10 percent of total employment;

11 (iii) The number of employment positions according to the following
12 wage bands: Less than thirty thousand dollars; thirty thousand dollars
13 or greater, but less than sixty thousand dollars; and sixty thousand
14 dollars or greater. A wage band containing fewer than three
15 individuals may be combined with another wage band; and

16 (iv) The number of employment positions that have employer-provided
17 medical, dental, and retirement benefits, by each of the wage bands.

18 (c) For persons claiming the tax ((~~preference~~)) expenditure
19 provided under chapter 82.60 or 82.63 RCW, the survey must also include
20 the number of new products or research projects by general
21 classification, and the number of trademarks, patents, and copyrights
22 associated with activities at the investment project.

23 (d) For persons claiming the credit provided under RCW 82.04.4452,
24 the survey must also include the qualified research and development
25 expenditures during the calendar year for which the credit was claimed,
26 the taxable amount during the calendar year for which the credit was
27 claimed, the number of new products or research projects by general
28 classification, the number of trademarks, patents, and copyrights
29 associated with the research and development activities for which the
30 credit was claimed, and whether the tax ((~~preference~~)) expenditure has
31 been assigned, and who assigned the credit. The definitions in RCW
32 82.04.4452 apply to this subsection (2)(d).

33 (e) If the person filing a survey under this section did not file
34 a survey with the department in the previous calendar year, the survey
35 filed under this section must also include the employment, wage, and
36 benefit information required under (b)(i) through (iv) of this
37 subsection for the calendar year immediately preceding the calendar
38 year for which a tax ((~~preference~~)) expenditure was claimed.

1 (3) As part of the annual survey, the department may request
2 additional information necessary to measure the results of, or
3 determine eligibility for, the tax ((~~preference~~)) expenditure.

4 (4) All information collected under this section, except the amount
5 of the tax ((~~preference~~)) expenditure claimed, is deemed taxpayer
6 information under RCW 82.32.330. Information on the amount of tax
7 ((~~preference~~)) expenditure claimed is not subject to the
8 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
9 public upon request, except as provided in subsection (5) of this
10 section. If the amount of the tax ((~~preference~~)) expenditure claimed
11 as reported on the survey is different than the amount actually claimed
12 or otherwise allowed by the department based on the taxpayer's excise
13 tax returns or other information known to the department, the amount
14 actually claimed or allowed may be disclosed.

15 (5) Persons for whom the actual amount of the tax reduced or saved
16 is less than ten thousand dollars during the period covered by the
17 survey may request the department to treat the amount of the tax
18 reduction or savings as confidential under RCW 82.32.330.

19 (6)(a) Except as otherwise provided by law, if a person claims a
20 tax ((~~preference~~)) expenditure that requires an annual survey under
21 this section but fails to submit a complete annual survey by the due
22 date of the survey or any extension under RCW 82.32.590, the department
23 must declare the amount of the tax ((~~preference~~)) expenditure claimed
24 for the previous calendar year to be immediately due. If the tax
25 ((~~preference~~)) expenditure is a deferral of tax, twelve and one-half
26 percent of the deferred tax is immediately due. If the economic
27 benefits of the deferral are passed to a lessee, the lessee is
28 responsible for payment to the extent the lessee has received the
29 economic benefit.

30 (b)(i) If a person claims a tax expenditure that does not produce
31 a net benefit to the state each year, the department must declare the
32 amount of the tax expenditure claimed for the previous calendar year to
33 be immediately due and payable.

34 (ii) The amount otherwise due and payable under (b)(i) of this
35 subsection may be waived if the failure to produce a net benefit to the
36 state was the result of circumstances beyond the control of the
37 taxpayer.

1 (iii) If the tax expenditure is a deferral of tax, twelve and
2 one-half percent of the deferred tax is immediately due.

3 (iv) If the economic benefits of the deferral are passed to a
4 lessee, the lessee is responsible for payment to the extent the lessee
5 has received the economic benefit.

6 (c) The department must assess interest, but not penalties, on the
7 amounts due under this subsection. The interest must be assessed at
8 the rate provided for delinquent taxes under this chapter,
9 retroactively to the date the tax (~~preference~~) expenditure was
10 claimed, and accrues until the taxes for which the tax (~~preference~~)
11 expenditure was claimed are repaid. Amounts due under this subsection
12 are not subject to the confidentiality provisions of RCW 82.32.330 and
13 may be disclosed to the public upon request.

14 (7) The department must use the information from this section to
15 determine the net benefit to the state of any individual's tax
16 expenditure for purposes of subsection (6)(b) of this section.

17 (8) The department must use the information from this section to
18 prepare summary descriptive statistics by category. No fewer than
19 three taxpayers may be included in any category. The department must
20 report these statistics to the legislature each year by October 1st.

21 ~~((+8))~~ (9) For the purposes of this section:

22 (a) "Person" has the meaning provided in RCW 82.04.030 and also
23 includes the state and its departments and institutions.

24 (b) "Tax (~~preference~~) expenditure" has the meaning (~~provided~~)
25 as "tax preference" in RCW 43.136.021 and includes only the tax
26 (~~preferences~~) expenditures requiring a survey under this section.

27 (c) "Net benefit to the state" means the amount of economic benefit
28 to the state in jobs created or retained, if the stated legislative
29 intent of the tax expenditure was job creation or retention, plus the
30 amount of increased economic activity directly related to the tax
31 expenditure claimed, measured by the amount of taxes paid by the
32 increased economic activity claimed, minus the annual amount of
33 taxpayer savings.

34 (i) For purposes of this subsection (9)(c), the amount of economic
35 benefit to the state in jobs created or retained must be measured by
36 state and local taxes paid by an employee, which must be calculated as
37 a percentage of the annual wage for each employment position as
38 follows:

1 (A) For an annual wage of less than twenty thousand dollars, the
2 percentage is 17.3 percent;

3 (B) For an annual wage of more than twenty thousand dollars and
4 less than thirty-seven thousand dollars, the percentage is 12.7
5 percent;

6 (C) For an annual wage of more than thirty-seven thousand dollars
7 and less than sixty-two thousand dollars, the percentage is 11.2
8 percent;

9 (D) For an annual wage of more than sixty-two thousand dollars and
10 less than ninety-nine thousand dollars, the percentage is 9.5 percent;
11 and

12 (E) For an annual wage of more than ninety-nine thousand dollars,
13 the percentage is 7.6 percent.

14 (ii) For purposes of this subsection (9)(c), the amount of
15 increased economic activity directly related to the tax expenditure
16 claimed must be measured by the increased taxes paid by the taxpayer
17 annually on the activity directly related to the tax expenditure minus
18 the annual amount of taxpayer savings.

19 **Sec. 2.** RCW 82.32.534 and 2010 c 114 s 103 are each amended to
20 read as follows:

21 (1)(a) Every person claiming a tax ((~~preference~~)) expenditure that
22 requires a report under this section must file a complete annual report
23 with the department. The report is due by April 30th of the year
24 following any calendar year in which a person becomes eligible to claim
25 the tax ((~~preference~~)) expenditure that requires a report under this
26 section. The department may extend the due date for timely filing of
27 annual reports under this section as provided in RCW 82.32.590.

28 (b) The report must include information detailing employment,
29 wages, and employer-provided health and retirement benefits for
30 employment positions in Washington for the year that the tax
31 ((~~preference~~)) expenditure was claimed. However, persons engaged in
32 manufacturing commercial airplanes or components of such airplanes may
33 report employment, wage, and benefit information per job at the
34 manufacturing site for the year that the tax ((~~preference~~)) expenditure
35 was claimed. The report must not include names of employees. The
36 report must also detail employment by the total number of full-time,

1 part-time, and temporary positions for the year that the tax
2 (~~preference~~) expenditure was claimed.

3 (c) Persons receiving the benefit of the tax (~~preference~~)
4 expenditure provided by RCW 82.16.0421 or claiming any of the tax
5 (~~preferences~~) expenditures provided by RCW 82.04.2909, 82.04.4481,
6 82.08.805, 82.12.805, or 82.12.022(5) must indicate on the annual
7 report the quantity of product produced in this state during the time
8 period covered by the report.

9 (d) If a person filing a report under this section did not file a
10 report with the department in the previous calendar year, the report
11 filed under this section must also include employment, wage, and
12 benefit information for the calendar year immediately preceding the
13 calendar year for which a tax (~~preference~~) expenditure was claimed.

14 (2) As part of the annual report, the department may request
15 additional information necessary to measure the results of, or
16 determine eligibility for, the tax (~~preference~~) expenditure.

17 (3) Other than information requested under subsection (2) of this
18 section, the information contained in an annual report filed under this
19 section is not subject to the confidentiality provisions of RCW
20 82.32.330 and may be disclosed to the public upon request.

21 (4)(a) Except as otherwise provided by law, if a person claims a
22 tax (~~preference~~) expenditure that requires an annual report under
23 this section but fails to submit a complete report by the due date or
24 any extension under RCW 82.32.590, the department must declare the
25 amount of the tax (~~preference~~) expenditure claimed for the previous
26 calendar year to be immediately due and payable.

27 (b)(i) If a person claims a tax expenditure that does not produce
28 a net benefit to the state each year, the department must declare the
29 amount of the tax expenditure claimed for the previous calendar year to
30 be immediately due and payable.

31 (ii) The amount otherwise due and payable under (b)(i) of this
32 subsection may be waived if the failure to produce a net benefit to the
33 state was the result of circumstances beyond the control of the
34 taxpayer.

35 (c) The department must assess interest, but not penalties, on the
36 amounts due under this subsection. The interest must be assessed at
37 the rate provided for delinquent taxes under this chapter,
38 retroactively to the date the tax (~~preference~~) expenditure was

1 claimed, and accrues until the taxes for which the tax (~~(preference)~~)
2 expenditure was claimed are repaid. Amounts due under this subsection
3 are not subject to the confidentiality provisions of RCW 82.32.330 and
4 may be disclosed to the public upon request.

5 (5) The department must use the information from this section to
6 determine the net benefit to the state of any individual's tax
7 expenditure for purposes of subsection (4)(b) of this section.

8 (6) The department must use the information from this section to
9 prepare summary descriptive statistics by category. No fewer than
10 three taxpayers may be included in any category. The department must
11 report these statistics to the legislature each year by October 1st.

12 (~~(+6)~~) (7) For the purposes of this section:

13 (a) "Net benefit to the state" has the same meaning as provided in
14 RCW 82.32.585.

15 (b) "Person" has the meaning provided in RCW 82.04.030 and also
16 includes the state and its departments and institutions.

17 (~~(+b)~~) (c) "Tax (~~(preference)~~) expenditure" has the meaning
18 (~~(provided)~~) as "tax preference" in RCW 43.136.021 and includes only
19 the tax (~~(preferences)~~) expenditures requiring a survey under this
20 section.

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